

## **TURA ADVISORY COMMITTEE MEETING**

### **Summary of Discussion**

**March 10, 2008**

#### **Advisory Committee**

##### **Members Present:**

Andy Goldberg, Stephen Gauthier, Tolle Graham, Edward Gomes, Robert Napolitano, Lucy Servidio, Samuel Lipson, Mark Rossi, William Judd, Sarah Little, Gary Nedelman, Jennifer Bonkowski (for Lee Ketelsen)

##### **Others Present:**

Rich Bizzozero (OTA), Mike Ellenbecker (TURI), Heather Tenney (TURI), Liz Harriman (TURI), Rachel Massey (TURI), Martin Reynolds (OTA), Shawn Konary (Mirant), Kerry Bowie (EEA), Glenn Keith (DEP), David Wawer (MCTA), Peter Blake (NEFA)

- Rich Bizzozero opened the meeting and Advisory Committee members introduced themselves.
- The January 28, 2008 meeting summary was presented and there were no changes proposed by Committee members.
- Rachel Massey and Heather Tenney provided updated information for the perchloroethylene (PCE) Higher Hazard Substance Policy Analysis, based on additional input from Northeast Fabricare Association and MassDEP's Environmental Results program:
  - TURI estimates that the 1,000 pound threshold would apply to between 70 to 160 facilities with 10 or more full-time employees (FTEs).
  - In 2006, 537 dry cleaners used 782,000 lbs of PCE.
  - In 2005, dry cleaners used approximately three times the amount of PCE reported by TURA filers.
  - Total annual use of PCE by dry cleaners declined by 60% from 1997 to 2006.
  - TURI's recommendation to designate PCE as a higher hazard substance remains unchanged.
- Rich Bizzozero summarized comments regarding the proposed higher hazard designation of PCE received by the Administrative Council. (Comments were presented in person and in writing.) At the March 5, 2008 Council meeting:
  - Stephen Risotto suggested TUR/OTA based decisions on old data and that a Nordic Study, completed in 2006, found that PCE use was not associated with increased risk of esophageal cancer.
  - The Nordic Study was also referenced by Peter Blake, who stated that while IARC may classify PCE in Group 2A, EPA's Science Advisory Board continues to classify the substance as a Class C possible carcinogen. He added that TURA's 10 FTE criterion is the "real

trigger,” which could impact 32% of Massachusetts dry cleaners. He contended that the approximately \$3,000 fee coupled with reporting costs represents an extreme hardship for dry cleaners.

- Stephen Gauthier, an Advisory Committee member, representing labor, stated that organized labor and workers statewide are addressing PCE concerns via health and safety committees. He said that engineered controls are not always failsafe and that there is a need to look at other methods for PCE control. He said that workers and labor organizations ask that the Administrative Council designate PCE as a higher hazard substance.
- Rich Bizzozero then summarized the discussion among Administrative Council members and others attending the March 5<sup>th</sup> meeting.
- A lengthy discussion focused on the number of dry cleaners projected to be affected by a higher hazard designation, the number of machines using PCE, and the overall economic impact of the proposed designation. There was a discussion regarding whether TURA can allocate sufficient resources to assist affected companies. Members questioned whether additional benefits might accrue from the higher hazard designation -- given that there is a good regulatory program (dry cleaner ERP) already in place.
  - In October, ERP will have new survey data regarding the number of dry cleaners and how many report more than 10 employees.
  - There was a consensus that additional information was needed to better gauge the economic impact of the proposal.
  - Council members deferred a vote pending review of additional data.
  - TURI agreed to address proposed questions and to circulate answers prior to the next Council meeting.
- A wide-ranging Advisory Committee discussion ensued:
- A member asked if the dry cleaning industry is already moving away from PCE, why would the high hazard designation be a hardship? An industry representative suggested the fees and costs associated with hiring or becoming a TURP coupled with the substantial time required for report preparation constitute the hardship.
  - A member suggested that the 10 FTE threshold could prompt companies to avoid adding staff or to lay off personnel to get below the threshold.
  - A member expressed concern that there should be established protocol that defines economic and other impacts earlier in the deliberation process, so that decision making is not impeded in latter stages.
  - In response to a question concerning how TURA efforts compare to those of ERP, it was explained that ERP has a best management

practices focus, while TURA addresses production changes to reduce use and the consideration of safer substitutes.

- An industry representative suggested that dry cleaners already have made significant progress in reducing PCE use and that the next big gains will come from a switch in technology, to wet cleaning, the use of hydrocarbons and silicone-based options. He asked, given industry progress in reducing PCE use, what is the benefit derived from the proposal?
- Information was provided on the process by which facilities may apply for a fee waiver in case of financial hardship.

➤ Mike Ellenbecker and Rachel Massey outlined TURI's policy analyses regarding retaining/taking no action on certain CERCLA chemicals.

- TURI and the SAB reviewed chemicals on the TURA Toxic or Hazardous Substance List, which derive from the CERCLA chemical list. CERCLA is the list of chemicals subject to "Superfund" cleanup rules.
- For the substances that have been reported under TURA, TURI supports the SAB's recommendations regarding retention and no action.
- The substances recommended by the SAB for retention pose health, safety, or environmental concerns.
- The SAB did not consider policy issues in its deliberations. TURI examined policy issues in its analysis.
- TURI reviewed the basis for the SAB recommendations, use information, regulatory context and implications of the decisions.
- Taking no action means the chemicals will be dropped from the TURA program effective January 1, 2009.
- The TURA statute requires the Council to act on these recommendations by August 1, 2008.

➤ Members engaged in a wide-ranging discussion concerning:

- Individual Substances: Questions were posed regarding: ethanol 2,2 oxybis dicarbamate, specifically its high persistence in sediment and generally how worker exposure is determined.
- Additional Information Needs: A member referred to the "no action spreadsheet" and requested more information about those listed as neurotoxicants, developmental and reproductive toxicants, and mutagens. Another member voiced concerns about sensitizers/asthma. (TURI committed to review relevant lists for the "no action" substances and check on asthma and sensitization more generally).
- Process Questions/Critiques: Members questioned the reasons for taking chemicals off the list. One member asked if a delisted chemical could be reconsidered later and suggested, as an example, that methods to assay estrogenicity may change in a few years.

(TURI said that a delisting decision could be revisited in the future if evidence warrants reconsideration. Thus, an entire category of estrogenic substances could be considered in the future. In responding to a question whether delisting was due to a lack of data, TURI noted that there are frequently data gaps for those chemicals with highest and lowest levels of concern).

- Consistency: A member suggested that there appear to be inconsistencies in specifying why one chemical was listed while another was not, e.g., acetic acid versus ferrous sulfate. Members said that data points need to be consistent. (TURI committed to add more information to the table that shows the reasons for each SAB recommendation).
- Communication: Members contended that there is a possibility for public confusion, given some substances are hazardous, but they are being delisted. The public needs to understand the SAB's rationale for choosing low hazard versus delisting. (Rich Bizzozero suggested that an explanatory fact sheet might be patterned after one being prepared on the process for designating a chemical as a higher hazard substance.) Members asked if information will be provided via press releases and the internet, and emphasized that messaging is important.

➤ Rich Bizzozero reviewed the TURA fee structure:

- Revenues from the TURA program have ranged between \$4 million to \$5 million annually.
- The revenue for the last year totaled \$4.2 million and is expected to be about \$750,000 lower this year, reflecting changes in reporting requirements resulting from the 2006 TURA amendments.
- Although the program has the authority to adjust filer fees to reflect the Producer Price Index (PPI), this has never been done. Fees have remained the same since 1991.
- The fee components and fee worksheet used by filers were explained.
- By August 1, 2008, the Administrative Council is required to examine the current toxics fee structure and may propose changes

➤ Following Rich Bizzozero's explanation of the current toxics fee structure, members discussed related issues, including the need to balance fairness, simplicity and incentives to improve toxics reduction. Members discussed possible incentive approaches, for example based on the hazard potential of the chemical or the number of FTEs of a filer. One member questioned the program impact of collecting less in fees, another whether there is a disconnect between legislative funding and TURA. It was suggested that the fees should be adjusted to reflect PPI and wondered what the collected fees would have been if there had

been an annual PPI adjustment. Rich Bizzozero said a projection would be prepared.

Rich Bizzozero said the Council makes policy recommendations concerning toxics use reduction in a report to the Governor. The report summarizes: expenditures for the Toxics Use Reduction Program; deliberations and actions regarding hazard designations; and toxics use reduction achievements. Members were asked for suggestions for additional content before the next meeting. Members requested and were promised a prior TURA Annual Report for reference.

TURI distributed a draft questionnaire that will be distributed to TURA filers as the basis for a program assessment, and invited members to provide comments.

- The next Advisory Committee meeting was scheduled from 1 PM to 4 PM on May 5, 2008.

The following handouts were distributed:

1. Agenda
2. TURI's Policy Analysis: Recommendation to retain certain CERCLA Chemicals that have been reported by TURA filers
3. TURI's Policy Analysis: Recommendation to take no action on certain CERCLA Chemicals that have been reported by TURA filers
4. Toxics Use Fee Worksheet and Fee Structure Assessment

March 25, 2008